

**ORDINANCE # 2002-03**  
**VERNON COUNTY SLUDGE/BIOSOLIDS DISPOSAL**

**Article One. Findings.** The Vernon County Board of Supervisors finds that the disposal of sludge/biosolids containing a mixture of municipal sewage, private sewage or industrial sludge/biosolids poses a risk to human health, to the integrity of the environment and the waters of the County. The County Board recognizes that sludge/biosolids disposal on lands is a necessary means of disposal of byproducts of industry and sewage operations, which may be conducted only if managed properly under permits issued by the County.

**Article Two. Authority.** This chapter is adopted pursuant to the police power granted to Vernon County by sec. 59.54 (6), Wis. Stats. Further, 40 CFR 503.5, 33 USCA 1345(e) grant authority to local government to impose more stringent requirements on the use, disposal and land application of sewage sludge/biosolids in order to protect public health and the environment from the adverse effect of such sludge/biosolids.

**Article Three. Definitions.**

- A. **Department** means the Vernon County Land and Water Conservation Department.
- B. **Applier** is any person engaged in the Land Application of Sludge/biosolids.
- C. **Sludge/Biosolids** means liquid industrial wastes, by-product solids and sludge/biosolids generated from food processing, commercial laundry, motor vehicle cleaning operations, or other industrial, commercial or agricultural operations which result in point source discharges that have no detrimental effects on the soils, vegetation or groundwater, as provided by sec. NR 214.02, Wis. Adm. Code. If municipal sludge or biosolids are commingled, the most restrictive provisions of NR. 204 or 214 shall apply.
- D. **County** means the County of Vernon, State of Wisconsin.
- E. **Land apply or land application** means the spraying or spreading of sludge/biosolids onto the land surface, the injection of sludge/biosolids below the surface, or the incorporation of sludge/biosolids into the soil so that it can either condition the soil or fertilize crops or vegetation grown in the soil.

- F. Person** means any individual, firm, partnership, joint venture, association, corporation, company, limited liability company, estate, trust, receiver, syndicate, city, village, town, county, district, special district, waste water treatment facility, political subdivision, or any other group or combination acting as a unit.
- G. Property** means a parcel of real estate that is identified as an area on which land application of sludge/biosolids will occur.
- H. Contractor** shall mean any person, firm, corporation or other legal entity who pumps, conveys, or in any manner otherwise disposes of waste, refuse, effluent, sludge/biosolids or other materials from septic tanks, cesspools, or other private sewage disposal systems, whether for consideration or otherwise, and shall include the owner of the premises concerned, his agents, servants or employees.
- I. Administrator** shall mean the County Conservationist of Vernon County, or his or her designee.
- J. Sludge/biosolids** when used herein without a modifier means any or all of the Classes of Sludge/biosolids, as defined herein.
- K. Sludge/Biosolids Storage Facility** means an impoundment made by constructing an embankment or excavating a pit or dugout or by fabricating a structure to contain Sludge/Biosolids.

**Article Four. Sludge/Biosolids Disposal Forbidden Without Permit.** (1) No person may land apply Sludge/Biosolids unless the person possesses a valid permit issued by Vernon County under this Ordinance.

(2) No contractor or applier may engage in land application in violation of the conditions of the permit and this ordinance.

(3) No person may apply Sludge/Biosolids in violation of state or federal law.

**Article Five. Permit Issuance Process.**

- (1) Any person who intends to engage in land application of Sludge/biosolids on a Property shall first apply for a permit from the Administrator. A Permit shall be valid only for land application on the specific Property identified in the Permit.

- (2) Any person seeking a permit for land application of sludge/biosolids shall apply for a permit for each separate parcel of real estate. A parcel is a "separate parcel" if it has a separate tax parcel identification number. If a person proposes to engage in land application of sludge/biosolids on additional Property, the person shall submit a separate application for such additional Property.
- (3) No person may file an application unless the person has permission to use the land involved in the application, which is sufficient to permit the applicant to use the land for land application of Sludge/biosolids without further agreement from the landowner.
- (4) The permit application shall be made on a form approved by the Vernon County Land and Water Conservation Department. The application shall be filed with the Administrator, accompanied by the required fees and all supporting information. The Administrator shall review the application to determine whether it is complete. If the application is incomplete, the Administrator shall return it to the applicant within one calendar week, specifying the incomplete items. An application shall be deemed complete when it has been on file for seven days without objections being made by the Administrator.
- (5) Once an application is complete, the Administrator shall complete review of the application within forty-five (45) days. The review shall involve verification of the information provided by the applicant, evaluation of the sufficiency of supporting materials, and evaluation of the appropriateness of issuing a permit under the conditions established by this ordinance.
- (6) The Administrator shall, no later than the forty-fifth (45<sup>th</sup>) day after the application is complete, determine whether the application should be granted or denied. If the Administrator concludes the application should be denied, the Administrator shall inform the applicant in writing of the specific reasons for rejecting the application. Otherwise, the Administrator shall grant the Permit.
- (7) All applications and supporting materials shall be public records open to inspection and copying pursuant to the Open Records Act.
- (8) An application may be withdrawn by the applicant any time before a decision has been rendered by the Administrator.

- (9) No application to Land Apply Sludge/biosolids, which has been denied, shall be submitted again until the passage of at least one year unless the applicant establishes a material change of circumstances related to the suitability of the land involved for Sludge/biosolids disposal.
- (10) New information shall not be grounds for resubmitting an application unless the applicant proves that the information could not reasonably have been produced at the time of the first application.
- (11) An application shall be deemed a reapplication if it pertains to at least 20 percent of the land included in a prior application, regardless of who submitted the application.
- (12) The fee for a permit for land application shall be as follows:
  - (a) For a Sludge/Biosolids permit; \$400.
  - (b) If land application occurs without a permit, the fee shall be doubled.
  - (c) If the County is required to incur engineering or legal expenses in connection with a permit application, the County may require the applicant to reimburse the County for such expenses.
- (13) A permit shall be valid for one year, and may be renewed upon filing a renewal application paying the fee provided in subsection (12). A renewal application shall incorporate the initial application and renewal applications and identify any information that has changed.
- (14) The permittee has an ongoing obligation to advise the Administrator of any changes in the accuracy of information included in the application.

**Article Six. Conditions For Permits.** Any person applying for a permit shall submit documentation that the proposal to Land Apply Sludge/biosolids meets the following conditions:

- (1) The land on which the Sludge/biosolids will be applied meets the following criteria:
  - (a) The land's average slope shall be no more than five percent and the maximum slope shall be nine percent.
  - (b) The minimum soil profile between the surface and the bedrock shall be three feet.
  - (c) The soils shall be absorbent to such an extent that Sludge/biosolids shall not pond, pool, accumulate or saturate the surface soil.

- (d) The land shall not have seasonally high groundwater that is at or within thirty-six inches of the surface. The presence of such groundwater may be established by soil mottles or other evidence.
  - (e) The land may not include any area that is identified as a recharge area for a municipal or public water supply.
- (2) The area on which Sludge/biosolids will be applied may not be less than 1,000 feet from the bank of a navigable stream or the ordinary high water mark of a lake. Sludge/biosolids may not be applied in or within 1,000 feet of a wetland, marsh, fen, swamp, bog, or vernal pond, natural drainage ways, sinkholes.
- (3) An applicant for a Sludge/biosolids permit shall submit evidence of liability insurance which provides coverage for spills, groundwater contamination and pollution, in an amount of at least one million dollars (\$1,000,000) per occurrence, five million dollars (\$5,000,000) aggregate, which shall remain in force during the entire period of time in which land applications occur. The cost of cleanup from spills, groundwater contamination and pollution on private land, land belonging to the county, and waters of the state shall be the responsibility of the applicant. The period of liability is dictated by the period of time required to properly close the applied treatment in accordance with NR 214.08.
- (4) The applicant shall identify all haulers who will be engaged in transporting Sludge/biosolids, and set forth the haulers' licenses to haul Sludge/biosolids and insurance policies.
- (5) All applicants in Vernon County at the time of submitting a permit shall prepare and submit a proof of financial assurance and an abandonment plan that meets the following requirements:
  - (a) NOTIFICATION. The regulatory authority shall provide written notification to the operator of the amount of financial assurance required under sub.(c).
  - (b) FILING. Following approval of the application, as a condition of the application, the operator shall file a financial assurance with in Vernon County. Financial assurance shall be payable exclusively to Vernon County.
  - (c) AMOUNT AND DURATION OF FINANCIAL ASSURANCE. The amount of financial assurance shall equal as closely as possible the cost to Vernon County of hiring a contractor to close the abandon Sludge/Biosolids Storage Facility. The amount of financial assurance shall be reviewed periodically by Vernon County to assure it equals

outstanding closing costs. The period of the financial assurance is dictated by the period of time required to properly close the abandon Sludge/Biosolids Storage Facility accordance with NR 213.07.

- (d) ABANDONMENT PLAN. A plan that includes a procedure to properly identify the presence and characteristics of any accumulated solid matter and provide appropriate removal, disposal, treatment or recycling alternatives in accordance with applicable solid and hazardous waste laws and this ordinance. The plan shall also address site restoration and any landscaping that will prevent groundwater impacts, accumulation or standing water or runoff.

**Article Seven. Restrictions on Land Application of Sludge/biosolids.**

- (1) The following restrictions shall apply to land applications of Sludge/biosolids unless otherwise specified:

- (a) Spreading may not be conducted when the wind velocity exceeds ten miles per hour.
- (b) Spreading may not be conducted by machinery or apparatus that is leaking or otherwise unable to properly apply Sludge/biosolids.
- (c) All trucks used to carry sludge/biosolids to disposal areas shall be properly maintained and sealed to prevent sludge/biosolids spills. If any sludge/biosolids spills on the roads or areas not designated for sludge/biosolids disposal, the contractor or permittee shall immediately and properly clean up the spill. The truck operator shall rinse the truck tires of sludge/biosolids before driving the truck onto public roads.
- (d) All fields on which sludge/biosolids are land applied must have estimated soil losses equal to or less than the tolerable soil loss (T) as measured by the revised universal soil loss equation, most recent version, as issued by the National Resources Conservation Service.

- (2) The following restrictions shall apply to all land applications of Sludge/biosolids:

- (a) Spreading may not be conducted on frozen ground, ice-covered or snow-covered ground, during rainfall or snowfall, or when the ground is saturated from prior rainfall, snowfall or snowmelt
- (b) All applications shall be injected into the soil, as opposed to being spread on the surface.
- (c) Spreading operations may not be conducted between 8:00 p.m. and 7:00 a.m., and not at all on Sunday.
- (d) Prior to the commencement of land application, the applicant shall, at the request of the owner of any water well located within 1000 feet of the area on which land application is to occur, take a sample of the

well water and test it for the presence of coliform bacteria, metals and other contaminants.

- (e) Prior to commencement of land application, the permittee shall give notice of intent to land apply sludge/biosolids to all residents within 1000 feet of the perimeter of the Property. Notice may be given by phone call, with the time and date logged, or by postcard. After sludge/biosolids has been applied, the permittee shall post a warning sign if the area on which sludge/biosolids has been applied is less than 500 feet from a public road.
- (f) Sludge/biosolids shall be tested at the source monthly or at any time the composition of the waste changes to assure that the waste remains consistent with the characterization report submitted to the Department of Natural Resources. All such testing shall be done by a Wisconsin certified laboratory, independent of the applier and the party generating the Sludge/biosolids. The County may, on reasonable notice, enter the land on which sludge/biosolids is being applied and take samples of the Sludge/biosolids and test the samples to determine the composition of the sludge/biosolids. The results shall be provided to the Administrator and kept on file by the applier until ten (10) years after the discontinuation of land application. In the event that the testing indicates that the sludge/biosolids contain levels of metals, contaminants or organisms that exceed the limits established for soil disposal of sludge/biosolids, the Administrator shall immediately suspend the applicable permit or permits and determine the source of the excessive levels.
- (g) The applier shall maintain records showing the source and volume of all Sludge/biosolids received, the area of land on which the sludge/biosolids was applied, and the contractor or employee who applied the sludge/biosolids. Such records shall be open to public inspection.

**Article Eight. Penalty.** (1) Any person violating any provision of this chapter is guilty of a forfeiture offense and upon conviction thereof is punishable by a forfeiture of not less than \$75 and not more than \$1000. Every violation of this chapter shall be construed as a separate offense for each day during which such violation continues and shall be punishable as provided in this section. The court or the County may require the violator to clean up, at the violator's expense, any illegally applied or deposited sludge/biosolids material and dispose of all such materials in an approved, environmentally safe and clean manner.

(2) In the event that the person does not properly clean up the spill or correct the violation hereunder after notice, the County may, by order of the Court, enter the property and abate the violation. The person responsible for the violation shall

be liable to the County for the full cost of such removal efforts, and in the Court shall grant judgment in favor of the County for such costs of removal.

**Article Nine. Revocation of Permits.** (1) Notice of Noncompliance: Whenever any land application is being done contrary to the provisions of this ordinance, or not in accordance with the permit conditions stated in the application and approved as the basis for the issuance of the permit, or if a hazard to life and limb exists, if public or private property is or may be endangered, the Administrator shall issue a written notice to the permittee or his/her agent or other responsive employee requiring cessation of work upon that portion of the land application site where noncompliance, hazard or other violation has occurred or exists.

(2) The notice shall state the nature of the said condition and shall contain sufficient information to appraise the permittee of the nature and extent of the correction required. No work shall be performed on said portion of the site unless or until the noticed condition is rectified and approved upon inspection of the Administrator or unless, as a condition of continuing the work, special precautions agreeable to the Administrator are performed by the permittee. Failure of the permittee to take such precautions or rectify such condition, hazard, nonperformance, noncompliance or violation shall be grounds for revocation of the permit.

(3) Permit Revocation: A permit shall not be revoked until a hearing is held by the Administrator. Written notice of the time and place of such hearing shall be served upon the permittee at least ten (10) days prior to the date set for the hearing. The notice shall also contain a brief statement of the reasons for revoking the permit. Notice may be given either by personal delivery thereof to the person to be notified, or by deposit in the United States mail in a sealed envelope registered and postage prepaid, addressed to the person to be notified at his address given in the application for the permit.

(4) Any permit holder, owner or surety who feels that he has been aggrieved by the decision of the Administrator may appeal any determination under this ordinance to the Circuit Court.

**Article Ten. Violations A Public Nuisance.** In addition, any violation of this chapter is deemed to be a public nuisance and may be abated or enjoined by the Circuit Court irrespective of any other remedy hereinabove provided.

**Article Eleven. Effective Date.** This ordinance shall be effective immediately upon its publication.



**Article Twelve. Severability.** In the event that any section, subsection or any portion of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to effect the validity of any other section, subsection or any other portion of this Ordinance.

Dated: November 13, 2002

Published: \_\_\_\_\_

Effective Date: \_\_\_\_\_

STATE OF WISCONSIN  
COUNTY OF VERNON

I, Sharon A. Solverson, County Clerk of Vernon County do hereby certify that the attached document is a true and correct copy of the Ordinance # 2002-03 required by law to be in my custody and approved by the Vernon County Board of Supervisors at a meeting held November 13, 2002.

Dated: November 13, 2002

(seal)

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Sharon A. Solverson,  
Vernon County Clerk